



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/632,731	07/31/2003	Peter Gerrard	0112300-1370	3883
29159	7590	06/16/2006	EXAMINER	
BELL, BOYD & LLOYD LLC P. O. BOX 1135 CHICAGO, IL 60690-1135			EPSHTEYN, ALEXANDER	
			ART UNIT	PAPER NUMBER
			3713	
DATE MAILED: 06/16/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/632,731		GERRARD ET AL.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Alex Epshteyn		3713	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 July 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-48 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-48 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>6/18/2004, 4/9/2004</u> .   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Claim Objections***

Claim 43 is objected to because of the following informalities: There appears to be two claims labeled claim 43. For purposes of examination, the second instance claim 43 has been treated as claim 44 and all subsequent claims have been corrected accordingly. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wolcox et al. (US Patent 5,019,973) and further in view of Yoseloff (US Patent 6,227,969).

In regards to claims 1-7, 18-24, and 35, Wolcox teaches of a method of operating a poker game comprising receiving an initial wager from a player, dealing a hand to a player including a first plurality of cards from a deck of cards face up, dealing a second plurality of cards to the player from the deck of cards, enabling the player to end the poker game or purchase one of the second plurality of cards to add to the hand for an additional wager, and repeating the above described method until there are no remaining cards in the second plurality of cards for the player to purchase or the player ends the game,

Art Unit: 3713

whereupon if an end event criteria is satisfied, an award is provided to the player if the hand includes a winning combination of cards (2: 26-50). Wolcox also teaches of enabling the player to add the purchased card to his original poker hand for an opportunity to form a better poker hand (5: 17-38).

Wolcox is silent on the manner in which the second hand of cards is dealt and does not explicitly teach of dealing the second hand of cards face down. However, Yoseloff, in the same field of endeavor, teaches of a similar poker game with a first hand of cards and a second hand of cards that can be purchased, where the second hand of cards is dealt face down (5: 1-8). Yoseloff further teaches of displaying the cards face up to the player if the player purchases the cards (6: 20-27). It would be obvious for one skilled in the art at the time the invention to incorporate dealing the second hand of cards face down to increase the excitement and anticipation of purchasing additional cards.

In regards to claims 8 and 25, Wolcox teaches of enabling the player to select which of the second plurality of cards to add to the hand if the player purchases one of the second plurality of cards to add to the hand (5: 38-43).

In regards to claims 9, 26, and 36, Wolcox teaches that the player may purchase as many additional cards as they would like and as such the first plurality of cards and the second plurality of cards can include the same number of cards.

In regards to claims 10-12, 27-29, 37-38, and 44-45, Wolcox teaches that each additional card purchase should be proportional to the function of the potential win and is different for each purchase. Thus, with a higher amount of

Art Unit: 3713

cards, a player has a potential for a greater win and as such, each wager amount should be increased accordingly (5: 44-55). It is simply a matter of design choice for one skilled in the art to choose a proportionality requirement for increasing the wager amount of each subsequent card purchase since Applicant has not stated a reason that any increase in wager amount as listed in claims 10-12 provides an advantage or solves a stated purpose. One skilled in the art, furthermore, would have expected Applicant's invention to perform equally as well with any other mathematical proportionality formula for selected how a wager would be increased for each card purchase.

In regards to claims 13 and 30, Wolcox teaches a deck of cards for use in the card game that includes a standard deck of 52 cards and the winning combination of cards includes standard poker winning combinations (3: 49-68).

In regards to claims 14, 15, 31, 32, 39, 40, 46, and 47, while Wolcox does not explicitly teach of operating the gaming machine in a data network which is the internet or any other type of data network, it is obvious to one skilled in the art at the time the invention was made that gaming machines are typically operated in a networked environment which can be played or used over the internet.

In regards to claims 16, 33, 41, 48, and 49, Wolcox teaches of cards that are virtual and are displayed by a display device of a gaming machine (2: 59-67).

In regards to claims 17, 34, 42, and 49, Wolcox teaches of a memory device that stores computer instructions for implementing the game as described above (3: 50-65).

Art Unit: 3713

In regards to claim 43, Wolcox teaches of dealing randomly a hand of cards including a plurality of cards from a standard deck of 52 cards face-up to a player (2: 26-35), enabling the player to sequentially purchase a plurality of additional cards one at a time to add to the hand, wherein the purchase of each additional card increases sequentially in cost (5: 44-55), and evaluating the hand including any purchased additional cards for winning combinations if the player does not want to purchase any of the or more of the plurality of additional cards or if no additional cards remain to be purchased, and providing an award to the player for the highest value winning combination in the hand of cards (2: 50-58).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alex Epshteyn whose telephone number is 571-272-5561. The examiner can normally be reached on M-F 8 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on 571-272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3713

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

\*\*\*



XUAN M. THAI  
SUPERVISORY PATENT EXAMINER  
TC3710